



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYERI**

**HIGH COURT CRIMINAL CASE NO. 64 OF 2002**

**(ORG. D.M.'S MUKURWEINI CR. CASE 590/01)**

**JOHN KINYUA GITICHE.....APPELLANT**  
**VERSUS**  
**REPUBLIC.....RESPONDENT**  
**JUDGMENT**

I have read the record of the evidence before the trial District Magistrate and I hold the opinion that the case was poorly prosecuted as from that disjointed evidence it cannot be said that the offences of store breaking and stealing contrary to Sections 304(a) and 279(b) of the Penal Code were proved against the Appellants beyond reasonable doubt.

Accordingly, these two appeals No. 64 of 2002 by **JOHN KINYUA GITICHE**, and No. 175 of 2002 by **CHRISTOPHER MWANGI WANDERI**, are both allowed. The conviction of each Appellant quashed and the sentences set aside. The Appellants be set at liberty forthwith unless lawfully detained in some other cause.

Dated this 1st day of August, 2003.

**J. M. KHAMONI**  
**JUDGE**